

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 22987 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

=====

NATVARSINH SHIVSINH PUVAR - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

=====

Appearance :

MR JN JADEJA for Petitioner(s) : 1,
ME NIRAJ SONI, AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 1 - 4.

=====

CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 30/03/2007

ORAL JUDGMENT

Rule. Mr. Niraj Soni, Ld. AGP waives service of rule on behalf of respondents. At the request of learned advocates for the parties, the matter is

taken up for final disposal today itself.

2. Petitioner's vehicle has been seized by respondent – authority on the ground that the petitioner had committed breach of the terms of the permit by carrying in-all 18 passengers from Ahmedabad to Himatnagar. It is also on the ground that on demand, the petitioner did not produce the driving licence and other relevant documents pertaining to the said vehicle. The vehicle has been seized by seizure memo dated 2/11/2006.

3. Mr. Jadeja, learned advocate for the petitioner has placed reliance on the judgment of this Court rendered in the case of Harishbhai Laxmanbhai Patel v. State reported in 1982 (2) G.L.R. Page 575 to substantiate his contention that for carriage of passengers exceeding the number prescribed in the permit, vehicle cannot be seized. As against that Mr. Soni, Ld. AGP has submitted that since there was breach of the terms of the permit, the authority was well within its bounds to seize the vehicle.

4. Having given careful consideration to the rival submissions, it appears that the vehicle was mainly seized for committing breach of the terms of the permit by carrying 18 passengers from Ahmedabad to Himatnagar. It is stated by Mr. Jadeja that the petitioner possesses valid driving licence and also the relevant RTO documents. Considering the fact that no useful purpose will be served if the vehicle is allowed to remain in custody of the respondent for indefinite time. Its condition is bound to deteriorate, if it is allowed to remain

idle in the custody of the respondent. The decision of this Court renders full support to the contention raised by Mr. Jadeja. It is submitted by Mr. Soni that if the petitioner is prepared to pay the penalty, the vehicle can be released. Mr. Jadeja, however, submits that the case be referred to the concerned Court and he is prepared to pay the penalty before the Court. In view of the same, the respondent – authority is directed to forward the relevant papers to the Court of the Judicial Magistrate First Class, Prantij, within 30 days from the date of this judgment and upon receipt of the record from the RTO, the Ld. Magistrate shall, within 15 days thereof, take appropriate decision for imposition of the penalty on the petitioner. Upon payment of the penalty amount, the respondent – authority will release the vehicle forthwith and hand it over to the petitioner. Petition is allowed. Rule made absolute.

[Akshay H Mehta, J.]

* Pansala.